

TAM:MEM:mel

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EMANUEL THOMAS NEWMAN,	:	
Plaintiff	:	No. 1:CV-01-0677
	:	(Conner, J.)
v.	:	
	:	
RONALD L. JURY, Lieutenant,	:	
SIS, et al.,	:	Filed Electronically
Defendants	:	

**BRIEF IN OPPOSITION TO PLAINTIFF'S**  
**MOTION TO MODIFY/RESTRICT THE USE OF**  
**PEREMPTORY CHALLENGES**

This is a Bivens complaint against Bureau of Prisons' employees claiming a deliberate indifference to Newman's safety and welfare. One of the defendants, Ronald L. Jury, was dismissed with prejudice, pursuant to Fed. R. Civ. P. 41(a), on March 19, 2002. Newman alleges that the remaining defendants, Lieutenant Louis Caprio and Lieutenant James White, allowed him to be assaulted on May 14, 1999, by another inmate, Kevin Tinsley, despite the fact that he sought defendants' protection prior to the day of the assault. The case is presently set for trial. Jury selection is scheduled to commence on May 24, 2004.

Presently before the Court is Newman's "Motion to Modify/Restrict the Use of Peremptory Challenges." Specifically, Newman requests that counsel for defendants not use the majority of his peremptory challenges to exclude African Americans from

the jury. Newman also requests that he be allowed to have the same number of peremptory challenges as that of the two defendants or that the Court "restrict the number of challenges the defendants have to the same that Newman is allowed to have." Doc. 109, p. 2

In response, defendants submit that they are not planning to make any requests for additional peremptory challenges beyond that which is provided by Rule 47 of the Federal Rules of Civil Procedure and 28 U.S.C. § 1870.

Respectfully submitted,

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United States Attorney

s/Mark E. Morrison  
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Date: April 12, 2004

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EMANUEL THOMAS NEWMAN,	:	
Plaintiff	:	No. 1:CV-01-0677
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on April 12, 2004, she served a copy of the attached

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by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Williamsport, Pennsylvania.

Addressee:

Emanuel Thomas Newman  
Reg. No. 13418-039  
Federal Correctional Institution  
P.O. Box 1000  
Oxford, WI 53952-1000

s/ Michele E. Lincalis  
MICHELE E. LINCALIS  
Paralegal Specialist